

Conference Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 264

# SENATE BILL 1032

AN ACT

AMENDING SECTION 25-503, ARIZONA REVISED STATUTES; AMENDING TITLE 25, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-505; RELATING TO FAMILY SUPPORT DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 25-503, Arizona Revised Statutes, is amended to  
3 read:

4 25-503. Order for support; methods of payment; modification;  
5 revocation; statute of limitations; judgment on  
6 arrearages; notice; security

7 A. In any proceeding in which there is at issue the support of a  
8 child, the court may order either or both parents to pay any amount necessary  
9 for the support of the child. If a personal check for support payments and  
10 handling fees is rightfully dishonored by the payor bank or other drawee, any  
11 subsequent support payments and handling fees shall be paid only by cash,  
12 money order, cashier's check, traveler's check or certified check. THE  
13 DEPARTMENT MAY COLLECT FROM THE DRAWER OF A DISHONORED CHECK OR DRAFT AN  
14 AMOUNT ALLOWED PURSUANT TO SECTION 44-6852. PURSUANT TO SECTIONS 35-146 AND  
15 35-147, THE DEPARTMENT SHALL DEPOSIT MONIES COLLECTED PURSUANT TO THIS  
16 SUBSECTION IN A CHILD SUPPORT ENFORCEMENT ADMINISTRATION FUND. If a person  
17 required to pay support other than by personal check demonstrates full and  
18 timely payment for twenty-four consecutive months, that person ~~shall be~~  
19 ~~permitted to~~ MAY pay support by personal check ~~as long as such~~ IF THESE  
20 payments are for the full amount, are timely tendered and are not rightfully  
21 dishonored by the payor bank or other drawee. On a showing of good cause,  
22 the court may order that the parent or parents required to make payments of  
23 support give reasonable security for these payments. If the court sets an  
24 appearance bond and the obligor fails to appear, the bond ~~shall be~~ IS  
25 forfeited and credited against any support owed by the person required to pay  
26 support. This subsection does not apply to payments that are made by means  
27 of a wage assignment.

28 B. On a showing that an income withholding order has been ineffective  
29 to secure the timely payment of support and that an amount equal to six  
30 months of current support has accrued, the court shall require the obligor  
31 to give security, post bond or give some other guarantee to secure overdue  
32 support.

33 C. In title IV-D cases, and in all other cases subject to an income  
34 withholding order issued on or after January 1, 1994, after notice to the  
35 custodial parent, the department or its agent may direct the person obligated  
36 to pay support or other payor to make payment to the support payment  
37 clearinghouse. The department or its agent shall provide notice by first  
38 class mail.

39 D. The obligation for current child support shall be fully met before  
40 any payments under an order of assignment may be applied to the payment of  
41 arrearages. If a person is obligated to pay support for more than one family  
42 and the amount available is not sufficient to meet the total combined current  
43 support obligation, any monies shall be allocated to each family or payor as  
44 follows:

1           1. The amount of current support ordered in each case shall be added  
2 to obtain the total support obligation.

3           2. The ordered amount in each case shall be divided by the total  
4 support obligation to obtain a percentage of the total amount due.

5           3. The amount available from the obligor's income shall be multiplied  
6 by the percentage under paragraph 2 of this subsection to obtain the amount  
7 to be allocated to each family.

8           E. In a case where the court has ordered that support be paid directly  
9 to the custodial parent, if the payment is not received within ten days of  
10 AFTER the date in the court order for payment of support, the person  
11 receiving support may enforce the support order by all civil remedies  
12 provided by law.

13           F. Any order for child support may be modified or revoked upon ON a  
14 showing of changed circumstance which THAT is substantial and continuing,  
15 except as to any amount that may have accrued as an arrearage prior to BEFORE  
16 the date of the filing of the notice of the motion or order to show cause to  
17 modify or revoke. The addition of health insurance coverage as defined in  
18 section 25-531 or a change in the availability of health insurance coverage  
19 may constitute a continuing and substantial change in circumstance. The  
20 order of modification or revocation may be made retroactive to the date of  
21 the filing of the notice of motion or order to show cause to modify or to  
22 revoke or to any date subsequent to such THE filing. The order of  
23 modification or revocation may include an award of attorney fees and court  
24 costs to the prevailing party.

25           G. Notwithstanding subsection F of this section, in a title IV-D case  
26 a party, or the department or its agent if there is an assignment of rights  
27 under section 46-407, may request every three years that an order for child  
28 support be reviewed and, if appropriate, adjusted. The request may be made  
29 without a specific showing of a changed circumstance that is substantial and  
30 continuing. The department or its agent shall conduct the review in  
31 accordance with the child support guidelines of this state. If appropriate,  
32 the department shall file a petition in the superior court to adjust the  
33 support amount. Every three years the department or its agent shall notify  
34 the parties of their right to request a review of the order for support. The  
35 department or its agent shall notify the parties by first class mail at their  
36 last known address or by including the notice in an order.

37           H. If a party in a title IV-D case requests a review and adjustment  
38 sooner than three years, the party shall demonstrate a changed circumstance  
39 that is substantial and continuing.

40           I. The right of a parent, guardian or custodian or the department to  
41 receive child support payments as provided in the court order vests as each  
42 installment falls due. Each vested child support installment is enforceable  
43 as a final judgment by operation of law. Unless it is reduced to a written  
44 money judgment, an unpaid child support judgment that became a judgment by  
45 operation of law expires three years after the emancipation of the last

1 remaining unemancipated child who was included in the court order. Beginning  
2 on January 1, 2000, child support orders, including modified orders, must  
3 notify the parties of this expiration date. The filing of a request for a  
4 written money judgment before the end of that period preserves the right to  
5 judgment until the court grants a judgment or the court denies the  
6 request. A request does not need to be filed within three years if:

7 1. The court later determines that the actions or conduct of an  
8 obligor impeded the establishment of a written money judgment, including  
9 avoiding service or notice of that action, changing a name or social security  
10 number or leaving the state where the last support order was entered without  
11 notifying the parent, guardian or custodian to whom support is ordered to be  
12 paid or the court or the department of that person's residential and mailing  
13 addresses.

14 2. The court later finds that the obligor threatened, defrauded or  
15 wrongfully coerced the obligee into not filing a request to reduce any  
16 support arrearages to a written money judgment.

17 J. The department or its agent or a parent, guardian or custodian may  
18 file a request for judgment for support arrearages not later than three years  
19 after the emancipation of all of the children who were the subject of the  
20 court order. In such a proceeding there is no bar to the establishment of  
21 ESTABLISHING a money judgment for all of the unpaid child support arrearages  
22 for all of the children who were the subject of the court order.  
23 Notwithstanding any other law, formal written judgments for support and for  
24 associated costs and attorney fees are exempt from renewal and are  
25 enforceable until paid in full. If emancipation is disputed, this subsection  
26 shall be liberally construed to effect its intention of diminishing the  
27 limitation on the collection of child support arrearages.

28 K. If the department or its agent or a person entitled to receive  
29 child support or spousal maintenance if the spousal maintenance is combined  
30 with a child support order has not received court ordered payments, the  
31 department or its agent or a person may file with the clerk of the superior  
32 court an affidavit indicating the name of the person obligated to pay support  
33 and the amount of the arrearages. The department or its agent or a person  
34 filing the affidavit shall provide notice to the person obligated to pay  
35 support, pursuant to the Arizona rules of civil procedure or by certified  
36 mail, return receipt requested, of the provisions of this section, including  
37 the person's right to request a hearing within twenty days, and that an  
38 affidavit of arrearages has been filed with the clerk of the superior court  
39 for purposes of obtaining a judgment against the person and shall attach a  
40 copy of the affidavit. The department or its agent or a person shall provide  
41 the clerk with proof of service of the notice or a notice of mailing stating  
42 that the notice required by this subsection was sent to the person obligated  
43 to pay support, the name of the person to whom the notice was sent, the date  
44 of mailing to the person and the date of receipt by the person and shall  
45 attach the copy of the return receipt. Within twenty days after receipt of

1 the notice, the person alleged to be in arrears may request a hearing in the  
2 superior court if the arrearage amount or identity of the person is in  
3 dispute. The court shall hold the hearing within ten days after receiving  
4 the request. If the person alleged to be in arrears fails to request a  
5 hearing within the time provided, or if the court finds that the objection  
6 is unfounded, the court shall review the affidavit and grant an appropriate  
7 judgment against the person obligated to pay support.

8 L. If the clerk or support payment clearinghouse is unable to deliver  
9 payments for a period of three months due to the failure of the person to  
10 whom the support has been ordered to be paid to notify the clerk or support  
11 payment clearinghouse of a change in address, the clerk or support payment  
12 clearinghouse shall return the payments to the obligor.

13 M. For the purposes of subsections I and J of this section, a child  
14 is emancipated:

- 15 1. On the date of the child's marriage.
- 16 2. On the child's eighteenth birthday.
- 17 3. When the child is adopted.
- 18 4. When the child dies.
- 19 5. On the termination of the support obligation if support is extended  
20 beyond the age of majority pursuant to section 25-501, subsection A or  
21 section 25-320, subsections B and C.

22 Sec. 2. Title 25, chapter 5, article 1, Arizona Revised Statutes, is  
23 amended by adding section 25-505, to read:

24 25-505. Limited income withholding orders; definition

25 A. THE DEPARTMENT OR ITS AGENT MAY ISSUE A LIMITED INCOME WITHHOLDING  
26 ORDER TO ANY EMPLOYER, PAYOR OR OTHER HOLDER OF A NONPERIODIC OR LUMP SUM  
27 PAYMENT THAT IS OWED OR HELD FOR THE BENEFIT OF AN OBLIGOR. THE DEPARTMENT  
28 OR ITS AGENT SHALL SERVE THE ORDER IN THE SAME MANNER AS PRESCRIBED IN  
29 SECTION 25-505.01 FOR SERVICE OF INCOME WITHHOLDING ORDERS. THE EMPLOYER,  
30 PAYOR OR HOLDER SHALL DELIVER OR MAIL BY FIRST CLASS MAIL A COPY OF THE ORDER  
31 TO THE OBLIGOR WITHIN TEN DAYS AFTER SERVICE ON THE EMPLOYER, PAYOR OR  
32 HOLDER.

33 B. THE LIMITED INCOME WITHHOLDING ORDER SHALL STATE THE AMOUNT OF  
34 CURRENT SUPPORT AND ANY ARREARAGES OWED BY AN OBLIGOR AND SHALL DIRECT THE  
35 EMPLOYER, PAYOR OR HOLDER TO WITHHOLD AND PAY TO THE SUPPORT PAYMENT  
36 CLEARINGHOUSE THE AMOUNT SPECIFIED IN THE ORDER AND NOT OTHERWISE EXEMPT BY  
37 LAW.

38 C. THE LIMITED INCOME WITHHOLDING ORDER SHALL INCLUDE A NOTICE TO THE  
39 OBLIGOR OF THE RIGHT TO AN ADMINISTRATIVE REVIEW PURSUANT TO SECTION 25-522.  
40 THE OBLIGOR, EMPLOYER, PAYOR OR HOLDER MAY CONTEST THE LIMITED INCOME  
41 WITHHOLDING ORDER IN THE SAME MANNER PRESCRIBED IN SECTION 25-505.01 TO  
42 CONTEST AN INCOME WITHHOLDING ORDER.

43 D. NOTWITHSTANDING SECTIONS 23-350 THROUGH 23-355, THE EMPLOYER, PAYOR  
44 OR HOLDER WHO RECEIVES AN INCOME WITHHOLDING ORDER PURSUANT TO SECTION  
45 25-505.01 OR AN ORDER OF ASSIGNMENT PURSUANT TO SECTION 25-504 SHALL WITHHOLD

1 THE AMOUNT SPECIFIED AND TRANSMIT THAT AMOUNT TO THE SUPPORT PAYMENT  
2 CLEARINGHOUSE IMMEDIATELY.

3 E. FOR THE PURPOSES OF THIS SECTION, "LUMP SUM PAYMENT" INCLUDES  
4 SEVERANCE PAY, SICK PAY, VACATION PAY, BONUSES, INSURANCE SETTLEMENTS,  
5 COMMISSIONS AND STOCK OPTIONS.

6 Sec. 3. Effective date

7 Section 25-505, Arizona Revised Statutes, as added by this act, is  
8 effective from and after December 31, 2001.

APPROVED BY THE GOVERNOR APRIL 30, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2001.

Passed the House March 26, 20 01,

by the following vote: 53 Ayes,

3 Nays, 4 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate January 24, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

           day of           , 20  ,

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

          , 20  ,

at            o'clock            M.

            
Governor of Arizona

S.B. 1032

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this            day of           , 20  ,

at            o'clock            M.

            
Secretary of State

HOUSE FINAL PASSAGE  
as per Joint Conference

Passed the House April 26, 2001,

by the following vote: 49 Ayes,

5 Nays, 6 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

SENATE FINAL PASSAGE  
as per Joint Conference

Passed the Senate April 19, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]  
President of the Senate

Charmen Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 27 day of April, 2001,

at 9:00 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 30 day of

April, 2001,

at 10:35 o'clock A M.

[Signature]  
Governor of Arizona

S.B. 1032

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of April, 2001,

at 4:50 o'clock P M.

[Signature]  
Secretary of State